

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/811,161

Filing Date: March 26, 2004

Applicant: Manisha Sinha

Group Art Unit: 1795

Examiner: Keith D. Walker

Title: LOAD FOLLOWING ALGORITHM FOR A FUEL
CELL BASED DISTRIBUTED GENERATION
SYSTEM

Attorney Docket: GP-303576

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PETITION FOR REVIEW OF REQUIREMENT FOR RESTRICTION
UNDER 37 CFR 1.144

Sir:

The Examiner has required restriction between the invention of Group I, claims 1-12, drawn to a fuel cell power distribution system including a fuel cell, classified in class 429, subclass 22, and the invention of Group II, claims 16-22, drawn to a method for distributing power, classified in class 429, subclass 13. Applicant elected the invention of Group I with traverse, and requested reconsideration. The Examiner made the restriction requirement final in the

Office Action mailed March 4, 2008. Applicant hereby petitions to have the Restriction Requirement removed as being improper.

Independent claim 1 claims a fuel cell distribution system for controlling power being applied to a system load, and independent claim 16 claims a method for distributing power from a fuel cell to a load. The claimed system includes a fuel cell for generating a draw current and the claimed method includes drawing current from the fuel cell. The claimed system also includes a power condition module responsive to the draw current that conditions the draw current and applies the conditioned draw current to the system load, and the claimed method also includes conditioning the draw current in the power conditioning module and applying the conditioned draw current to the system load. The claimed system also includes a fuel cell sensor for measuring the draw current from the fuel cell, and the claimed method includes measuring the draw current from the fuel cell. The claimed system also includes a fuel cell controller that operates a load following algorithm that defines a command signal applied to the fuel cell that sets the available output power from the fuel cell, where the load following algorithm also defines a maximum current draw signal applied to the power conditioning module that defines a maximum current to be drawn from the fuel cell, and the claimed method also includes defining a command signal applied to the fuel cell that sets the available output power from the fuel cell and defining a maximum draw current signal applied to the power conditioning module that defines the maximum draw current to be drawn from the fuel cell.

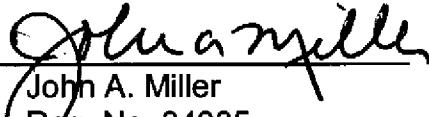
MPEP 808.02 states that in order for a Restriction Requirement to be proper, the Examiner must show that the inventions as claimed are independent or distinct under the criteria of MPEP 806.05(c)-806.06, and must explain why there would be a serious burden on the Examiner if restriction is not required. In order to establish a serious burden on the Examiner, the Examiner must show one of a separate classification between the inventions by showing that each invention has attained recognition in the art as a separate subject for inventive effort and also a separate field of search, a separate status in the art when the inventions are classifiable together by showing that the inventions have formed a separate subject for inventive effort by the inventors, or a different field of search where it is necessary to search for one of the inventions in a manner that is not likely to result in finding pertinent art for the other inventions.

The Examiner states on page 2 of the Office Action that "since the two inventions have separate classifications, recognition of separate inventive effort by inventors is not required." It appears that the Examiner is relying on showing a separate classification to establish the required burden. Applicant submits that the Examiner must also show a separate field of search for the inventions. Applicant submits that the Examiner has not shown a different field of search and could not show a different field of search because it is not possible that a search for the invention of independent claim 1 or 16 is unlikely to result in finding art pertinent to the other invention of independent claim 1 or 16. Thus, the restriction requirement is improper.

In view of the foregoing, it is respectfully requested that the restriction requirement be withdrawn, and that all the claims be examined together.

Respectfully submitted,

MILLER IP GROUP, PLC
Attorney for Applicant

By: 
John A. Miller
Reg. No. 34985

Dated: 6/4/08
42690 Woodward Ave., Ste. 200
Bloomfield Hills, MI 48304
Telephone: (248) 858-4200
Facsimile: (248) 858-4201